

## **GOVERNMENT OF ANDHRA PRADESH**

### **ABSTRACT**

Public Services – Treasuries and Accounts Department – Allegations of Misappropriation of Government Money – Departmental Proceedings initiated against Sri D.Hanumantha Reddy, Accounts Officer (Retd), O/o I.P.P. in the Directorate of Health & Family Welfare, Hyderabad - Further action dropped – Orders – Issued.

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### **FINANCE (ADMN.I.VIG.) DEPARTMENT**

**G.O.Rt.No.2565**

**Dated:05-07-2011**

**Read the following:-**

- 1.G.O.Ms.No.308, Finance (Admn.I) Dept., dt. 16-08-1993.
- 2.Memo.No.4594/18/A3/93/Admn.I, dated 25.10.1997.
- 3.A.P.A.T. orders dated 15-12-2003 in O.A.No.7997/97.
- 4.A.P.High Court Orders dt.15.6.2004.
5. Govt.Memo.No.34364/98/A2/Admn.I.Vig./03, Dt.9.5.2005.
6. Secretary, Tribunal for Disciplinary Proceedings, Hyderabad, Lr.Ref.No.6/05 dt.6.6.2005.
- 7.Govt.Lr.No.34364/98/A2/Admn.I./2003, dt.18-07-2005 addressed to Tribunal for Disciplinary Proceedings.
- 8.Report received from Tribunal for Disciplinary Proceedings No.S/25/2010,dt:23-10-2010.
9. Representation received from Sri D.Hanumantha Reddy, Accounts Officer (Retd),dt:29-10-2010.
10. Govt. Lr.No.34364/98/A2/Admn.I./2003, dt.18-04-2011 addressed to APPSC.
- 11.Secretary APPSC Lr.No.670/RT-I/3/2011, dt. 03-06-2011.

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### **ORDER:**

A departmental enquiry was conducted in a case of misappropriation of Government money of Rs.70,000/- in the Directorate of Health & Family Welfare. Sri D.Hanumantha Reddy, A.O.(Retd.) while working as Accounts Officer, I.P.P. in the Directorate of Health & Family Welfare was charge sheeted for being involved in misappropriation of Government money of Rs.70,000/- in collusion with Sri S. Absar Ahmed, Superintendent of Medical and Health by altering the Bank cheque of Rs.23,000/- to that of Rs.93,000/- and recording in the cash register accordingly. Departmental action and criminal action was initiated against both the delinquents. In the criminal case Sri D.Hanumantha Reddy was acquitted of the charges on the ground that Government permission was not taken for prosecution. The other accused Sri S.Absar Ahmed was sentenced to imprisonment.

2. In the Departmental Proceedings, the charges framed against Sri D.Hanumantha Reddy, A.O. (Retd.) were proved beyond any doubt. Accordingly, Government after careful examination of the recommendation of the A.P.P.S.C. imposed a punishment of 10% cut pension permanently against Sri D.Hanumantha Reddy, A.O. (Retd.) vide G.O.Ms.No.308, Finance (Admn.I) Department, dt:16-8-1993.

3. Aggrieved by the orders of Government, the individual approached A.P.A.T. by filing O.A.No.7997 of 1997. The A.P.A.T. in its judgment dated 15-12-2003 observed that:

*“Apart from various contentions raised by the learned counsel for applicant opposing the punishments imposed other on the applicant, the main contention raised by him is that as the case of the applicant was not referred to the Tribunal for Disciplinary Proceedings as required under Sec.4 of the A.P. Civil Services (Disciplinary Proceedings Tribunal) Act, 1960 and the Rules framed thereunder in the year 1961, the departmental enquiry conducted under the APCS (CCA) Rules is void and as such no action can be taken against the applicant based on the enquiry under the A.P.C.S.(CCA) Rules. The counters are silent about this stand taken by the learned counsel for the applicant”*

*“The main issue in this case is whether the case of the applicant was required to be referred to the Tribunal for Disciplinary Proceedings under A.P. Civil Services (Disciplinary Proceedings Tribunal) Act, 1960 and the rules framed in the year 1961?”*

*Learned counsel for the applicant has contended that the Government does not have any discretion to refer the matter to the Tribunal for Disciplinary Proceedings or conduct the enquiry under the A.P.C.S.(CCA) Rules as the choice given to the Government in this regard became available only with the amendment carried out in the year 1993. Learned Government Pleader has stated that the Government is fully competent to decide upon the course of action in regard to the enquiry whether to be conducted under the A.P.C.S. (CCA) Rules or the delinquent official should be placed before the Tribunal for Disciplinary Proceedings for trial.*

*It is pointed out that the Tribunal in O.A.No.50706/90 on 16-10-1998 while following the judgement of the Supreme Court in the case of State of Andhra Pradesh Vs. K.Ramachandran reported in AIR 1998 SC 1093 had held that it is mandatory to refer the case of a Government employee to the Tribunal for Disciplinary Proceeds under Section 4 of A.P. Civil Services (Disciplinary Proceedings Tribunal) Act, 1960 read with the Rule 3 of the A.P. Civil Services (Disciplinary Proceedings Tribunal) Rules*

1961. The Tribunal, in its order dated 16-10-1998 in O.A.No.50706/1990 further held that the applicant was drawing more pay than Rs.300/- mentioned in the relevant rules of the Tribunal for Disciplinary Proceedings and as such his case is within the purview of Tribunal for Disciplinary Proceedings and the respondents have no jurisdiction to conduct departmental enquiry contrary to Sec.4 of the A.P. Civil Services (Disciplinary Proceedings Tribunal) Act, 1960 before amendment in 1993. As such, the punishment orders challenged in O.A.No.50706/1990 were set aside by the Tribunal by its order dated 16-10-1998. In the case of State of Andhra Pradesh Vs. K.Ramachandran dealt with by the Supreme Court, the Government of Andhra Pradesh had imposed the penalty of 20% cut in the pension of the respondent therein for a period of five years. The Supreme Court by its judgement dated -7-01-1998 set aside the punishment orders by observing that it is apparent that at the relevant time, when the disciplinary proceedings were started against the respondent, Government have no jurisdiction to hold departmental proceedings for the misconduct committed by the respondent. It had no choice except to refer the case to the Tribunal. The Supreme Court in the above case further observed that Sec.4 of the Act which was in mandatory terms was amended by the Andhra Pradesh Act 6/1993 and the word “shall” occurring in Sec.4 was replaced by the word “may” which gave discretion to the Government to refer or not to refer the matter to the Tribunal. The Supreme Court further observed that Sec.4A which was inserted in the Principal Act by the same amending Act, namely Andhra Pradesh Act 6/1993, gave power to the Government to withdraw at any stage, any case from the Tribunal before its conclusion. This again indicates that the choice to refer or not to refer the case to the Tribunal for Disciplinary Proceedings or to withdraw any case already referred to the Tribunal became available to the Government only after the amendment of the Principal Act 6/1993.

In view of the dictum laid down by the Supreme Court Judgment in the case of State of Andhra Pradesh Vs. K.Ramachandran which was followed by the Tribunal in its order dated 16-10-1998 in O.A.No.50706/1990, this case is also squarely covered by the order dated 16-10-1998 issued in O.A.No.50706/1990. Therefore, following the order dated 16-10-1998 in O.A.No.50706/1990, G.O.Ms.No.308, Fin. & Plg. (FW.Admn.I) Department, dated 16-08-1993 and the proceedings issued in Memo.No.4594/18/A3/93/Admn.I, dated 25-10-1997 are set aside and the O.A. is allowed. However, this order does not preclude the authorities to take further action in the matter against the applicant in accordance with Rule 9 of A.P. Revised Pension Rules. There will be no order as to costs.”

4. In view of the orders of A.P.A.T. in O.A.No.7997/97 filed by Sri D.Hanumantha Reddy, A.O.(Retd.), the punishment orders issued in G.O.Ms.No.308, Finance (Admn.I) Department, dated 25-10-1997 and Memo.No.4594/18/A3/93/Admn.I, dated 25-10-1997 became infructuous.

5. In consultation with the learned Advocate General and after careful examination of the matter, Government decided to file a Writ Appeal in A.P.High Court challenging the order of A.P.A.T. dated 15-12-2003 in O.A.No.7997/97 filed by Sri D.Hanumantha Reddy, A.O.(Retd.) Accordingly, a W.P.No.8894/2004 was filed by Director of Treasuries and Accounts against the orders of A.P.A.T.

6. The Hon'ble A.P. High Court in their order dt.15.6.2004 observed that

***“The issue is squarely covered by the decision of Supreme Court in STATE OF A.P.V.K.RAMACHANDRAN, wherein it was held that it is mandatory to refer the case of a Government employee to the Tribunal for Disciplinary Proceedings under Section 4 of the A.P. Civil Services (Disciplinary Proceedings Tribunal) Act, 1960 read with Rule 3 of A.P.C.S. (Disciplinary Proceedings Tribunal) Rules, 1961. In as much as the disciplinary proceedings were initiated prior to the amendment, it is mandatory for the Government to refer the matter to the Tribunal for disciplinary enquiry. Under those circumstances, the Tribunal had set aside the order and allowed the O.A. However, the Tribunal observed that it did not preclude the authorities to take further action in the matter against the employee in accordance with Rule 9 of the A.P. Revised Pension Rules.***

***In view of the above, we do not find any ground to interfere with the order passed by the Tribunal. Accordingly, the writ petition is dismissed.”***

7. In the above circumstances, Government entrusted the case to the A.P. Tribunal for Disciplinary Proceedings in the reference 5<sup>th</sup> cited.

8. The TDP in its report stated that, the learned Counsel appearing for the Charged Officer contended that the banker's cheque bearing No.110425 was obtained on 16-6-1987 for Rs.23,000/- and it was in the custody of the Superintendent, an Officer by name Syed Absar Ahmed. While the Charged Officer was transferred he handed over the charge on 31-8-1987 to Sri RC Gurappa and later it came to light that the aforesaid Cheque was altered from Rs.23,000/- to Rs.93,000/-. Admittedly, charge memos were issued to the CO as well as to the Superintendent by name Sri Syed Absar Ahmed. **The Superintendent Sri Syed Absar Ahmed clearly admitted that he had**

**misappropriated Rs.70,000/- by altering the figure in the Cheque and the amount was utilized for his personal purpose and admitted that he will repay the amount within a few days.** It is clear that Sri Syed Absar Ahmed has taken the responsibility that he has misappropriated Rs.70,000/- belonging to the Government and he has also requested the Government to take lenient view as he is willing to repay the amount. **Sri Syed Absar Ahmed had agreed that he is prepared to pay the cash from his pay, gratuity or commutation of pension and that he will collect the money from his relatives and remit the same as soon as he gets it.** These three letters are signed by Syed Absar Ahmed accepting the guilt and showed his willingness to remit the amount. Therefore, it is crystal clear that trend setter for the fraud by altering the figures in the Cheque is Sri Syed Absar Ahmed. He owned the responsibility and assured the Government that he will pay back the misappropriated money. **Thus, prime-facie it indicates that the misappropriation is committed by Sri Syed Absar Ahmed and there is no role on the part of the Charged Officer viz: Sri D.Hanumantha Reddy, Accounts Officer (Retd).**

9. In fact, the criminal cases in CC No.317/1989 and CC.No.143/1996 filed on the file of IV Metropolitan Magistrate, Hyderabad which were disposed off by the Court held that the charges were not established against **Sri D.Hanumantha Reddy, Accounts Officer (Retd)**. It is suffice to hold that the entire responsibility for misappropriation of Rs.70,000/- was owned by Sri Syed Absar Ahmed, a responsible officer as per Annexures-I to III enclosed to the Written Arguments of the CO. The Government took a decision by issuance of G.O.Ms.No.5 that the charges are dropped against the CO and for release of his pensionary benefits.

10. **The Chairman, Tribunal for Disciplinary Proceedings held that none of the charges framed against the Charged Officer are established and the Charged Officer is found not guilty and he is exonerated from all the charges.** Basing on the report of Tribunal for Disciplinary Proceedings, Sri D.Hanumantha Reddy, A.O. (Retd.) has requested to release all the service benefits from 1-5-88 to 30-9-89 and all the pensionary benefits from 1-10-1989 at once as he is facing lot of financial, mental & health problems at the fag end of his life as his case was unnecessarily pending since 23 years including the suspension period..

11. Government, after careful examination decided to exonerate him from the charges and to drop action against Sri D.Hanumantha Reddy, A.O. (Retd.) based on the findings of the Tribunal for Disciplinary Proceedings in its enquiry report and referred the matter to the APPSC to obtain their concurrence in this regard as the earlier punishment was imposed with the concurrence of the APPSC vide reference 10<sup>th</sup> read above.

12. The A.P. Public Service Commission, Hyderabad in their letter 11<sup>th</sup> read above, have concurred with the proposal of the Government to exonerate him from the charges and drop action against Sri D.Hanumantha Reddy, A.O. (Retd.).

13. Government, accordingly as per Section 8 of the A.P.C.S (Disciplinary Proceedings Tribunal) Act,1960 , hereby fully exonerate Sri D.Hanumantha Reddy, A.O. (Retd.) from the Charges and drop further action against him.

14. The Director of Treasuries and Accounts, Hyderabad shall take necessary further action in the matter accordingly.

15. The G.O. is available on Internet and can be accessed at the address <http://www.goir.ap.gov.in>.

**[BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH]**

**RANJEEV R. ACHARYA**  
**PRINCIPAL SECRETARY TO GOVERNMENT (FP)**

To

The individual through the Director of Treasuries & Accounts, A.P., Hyderabad.

The Director of Treasuries and Accounts, A.P., Hyderabad.

Copy to:

The Secretary, A.P. Public Service Commission, AP, Hyderabad.

The Secretary, A.P, Vigilance Commission, Secretariat, Hyderabad.

The Accountant General, A.P., Hyderabad.

The Chairman, Tribunal for Disciplinary Proceedings, Hyderabad.

The Director of Health & Family Welfare,A.P.Hyderabad.

**:: FORWARDED BY ORDER ::**

**SECTION OFFICER**